

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>MARION ECHOLS,</b>	)	<b>CASE NO.</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE</b>
	)	
<b>v.</b>	)	<b><u>NOTICE OF REMOVAL OF CIVIL</u></b>
	)	<b><u>ACTION</u></b>
<b>COURIER EXPRESS ONE, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

TO: THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION

Defendant Courier Express One, Inc., by and through its undersigned counsel, hereby gives notice of removal of this lawsuit from the St. Louis County Circuit Court to the United States District Court for The Eastern District of Missouri, Eastern Division, and respectfully submits to this Honorable Court:

1. On or about April 30, 2021, Plaintiff filed an action in the St. Louis County Circuit Court, entitled *Marion Echols v. Courier Express One, Inc.*, Case No. 21SL-CC-01974. Defendant is not aware if the *Summons* and *Petition* have been served on its Registered Agent yet. Regardless, a true copy of the *Petition* is attached hereto, and Defendant waives service of the *Summons*. To Defendant's knowledge, no other pleadings have been filed, entered, served or issued upon it in the matter.

2. This *Notice of Removal* is timely filed pursuant to 28 U.S.C. §1446(b) because it is filed within 30 days of the *Petition* being filed and the *Petition's* subsequent service (or waiver, if not yet served) on Defendant's registered agent.

3. As alleged by Plaintiff in his *Petition*, Plaintiff is a resident and citizen of Missouri. *Petition*, ¶1.

4. Defendant is an Illinois corporation, with its headquarters and principal place of business in Illinois. *Defendant's State of Missouri Application for Certificate of Authority for a Foreign for-Profit Corporation; Defendant's 2020 State of Missouri Annual Registration Report*. Accordingly, Defendant is not a citizen of the State of Missouri.

5. The amount in controversy in this case exceeds \$75,000, exclusive of interest and costs. In Plaintiff's *Petition*, he is seeking damages "less than Seventy-Four Thousand & 00/100 (\$74,000)." *Petition* at Count I-III Prayers for Relief and general Prayer for Relief. In addition to seeking up to \$73,999 in damages, Plaintiff is also seeking "attorney's fees." *Ids.* Because Plaintiff is seeking attorney fees pursuant to the Missouri Human Rights Act, attorney fees count towards the amount in controversy. *Harris v. Meridian Medical Techs. Inc.*, 2021 WL 1750154 (E.D. Mo. May 4, 2021) at \*2, *citing Spight v. Caterpillar, Inc.*, 2016 WL 3546411 (W.D. Mo. June 24, 2016) at \*2.

6. There can be no reasonable doubt Plaintiff's claim for attorney fees will exceed \$1,001 – pushing the amount in controversy over \$75,000. This matter was already pursued as an administrative claim before the EEOC and MHRC. *Notice of Right to Sue*. And before removing, Defendant repeatedly asked Plaintiff to stipulate his less than \$74,000 Prayer for Relief *included attorney fees*. 5/17/21, 5/21/21 *Emails*. Had Plaintiff confirmed the less than \$74,000 figure included attorney fees, Defendant would not have removed. But Plaintiff declined to respond. *Id.*<sup>1</sup> Therefore, on the face of his *Petition*, Plaintiff is seeking in excess of \$75,000 – in excess of the \$75,000 threshold for diversity jurisdiction.

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<sup>1</sup> If Plaintiff stipulates he is not seeking (and will not accept) more than \$75,000 *inclusive of fees* (everything except taxable costs and interest), Defendant will stipulate to a remand.

7. Therefore, the requirements of 28 U.S.C. §1332(a) have been met because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and because this is a civil action between citizens of different states.

8. The United States District Court for The Eastern District of Missouri, Eastern Division, therefore has original jurisdiction over this matter. Accordingly, this action may be removed to this Court pursuant to 28 U.S.C. § 1441, 1446 and 1367.

9. Pursuant to 28 U.S.C. §1391, venue is proper in the United States District Court for The Eastern District of Missouri, Eastern Division, because a substantial part of the alleged events and omissions giving rise to Plaintiff's claims purportedly occurred within this judicial district and because St. Louis County is one county where Plaintiff performed services for Defendant. *Petition*, ¶6 (Hazelton is in St. Louis County).

10. As required by 28 U.S.C. §1446(d), Defendant has provided written notice of the filing of this *Notice of Removal* to Plaintiff's counsel of record and has filed a copy of this *Notice* with the Clerk of Courts for St. Louis County Circuit Court.

WHEREFORE, pursuant to 28 U.S.C. §§1332, 1441, 1446 and 1367, Defendant removes this case from the St. Louis County Circuit Court to this Court.

Respectfully submitted,

ROETZEL & ANDRESS, LPA

By: /s/Barry Y. Freeman

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**CERTIFICATE OF SERVICE**

I hereby certify a true and correct copy of the foregoing was served on Plaintiff's counsel via the Court's electronic filing system and via email (at [lubylaw@charter.net](mailto:lubylaw@charter.net)), this 25<sup>th</sup> day of May 2021.

/s/Barry Y. Freeman